



End User License & Warranty Agreement



End User License Agreement

Important Note – Read carefully: This End User License Agreement ("EULA") is a legal agreement between user (either an individual or a single entity) and TerraMaster, Inc. and its affiliates, for any TerraMaster software, together with any other associated firmware, media, printed materials and "online" or electronic documentation (collectively, the "Software") available for downloading at www.terra-master.com or provided with or installed on a TerraMaster NAS (the "device").

User agree to be bound by the terms of this EULA by opening the package containing the software, installing the software not otherwise pre-installed by TerraMaster on a device or using a device that includes pre-installed software. If user do not agree to the terms of this EULA, do not open the packing box containing device, install the software or use device containing the software. Instead, user may return device to the distributor from which user purchased it for a refund in accordance with the distributor's applicable refund policy.

Article 1. Limited Software License.

Subject to the terms and conditions of this EULA, TerraMaster grants user a limited, non-exclusive, non-transferable, personal license to install, run and use one copy of the software solely in connection with device which user are authorized to use. Software License.

Article 2. Documentation.

User may make and use a reasonable number of copies of any documentation provided with the software; provided that such copies will only be used for internal business purposes and are not to be republished or redistributed (either in hard copy or electronic form) to any third party.

Article 3. Backup.

User may make a reasonable number of copies of the software for backup and archival purposes.

Article 4. Updates.

Any software provided to user by TerraMaster or made available on the TerraMaster website at www.terra-master.com ("website") that updates or supplements the original software is governed by this EULA unless separate license terms are provided with such updates or supplements, in which case, such separate terms will govern.

Article 5. License Limitations.

The license set forth in Article 1 applies only to the extent user have ordered and paid for device and it states all user rights with respect to the software. TerraMaster reserves all rights not expressly granted to user in this EULA. Without limiting the foregoing, user will not authorize or permit any third party to:

(a) use the software for any purpose other than the one in connection with device; (b) license, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the software or use the software in any commercial hosted or service bureau environment; (c) reverse engineer, decompile, disassemble or attempt to crack the source code for or disclose any trade secrets related to the software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; (d) adapt, modify, alter, translate or create any derivative works of the software; (e) remove, alter or obscure any copyright notice or other proprietary rights notice of device; or (f) circumvent or attempt to circumvent any methods employed by TerraMaster to control access to the components, features or functions of device or software.

Article 6. Open Source.

The software may contain components licensed to TerraMaster under the GNU general public license ("GPL components"), currently available at <http://www.gnu.org/licenses/gpl.html>. The terms of the GPL will control solely with respect to the GPL components to the extent that this EULA conflicts with the requirements of the GPL with respect to user use of the GPL components, and, in such event, user agree to be bound by the GPL with respect to user use of such components.

**Article 7. Audit.**

TerraMaster will have the right to audit user compliance with the terms of this EULA. User agree to grant access to TerraMaster to facilities, equipment, books, records and documents, and to reasonably cooperate with TerraMaster in order to facilitate such audit.

Article 8. Ownership.

The software is valuable property of TerraMaster and its licensors and is protected by copyright and other intellectual property laws and treaties. TerraMaster or its licensors are entitled to all rights, title and interests and all of the software copyright and other intellectual property rights in the software.

Article 9. Limited Warranty.

TerraMaster will make commercially reasonable efforts to, in TerraMaster's sole discretion, either correct any such nonconformity in the software or replace any software that fails to comply with the foregoing warranty, provided that user give TerraMaster a written notice of such noncompliance within the warranty period. The foregoing warranty does not apply to any noncompliance resulting from any: (a) use, reproduction, release or disclosure not in accordance with this EULA; (b) any customization, modification or other alteration of the software by anyone other than TerraMaster's personnel; (c) use of the software in combination with any device, services or other components provided by anyone other than TerraMaster's personnel; or (d) user failure to comply with this EULA.

Article 10. Support.

During the warranty period, TerraMaster will provide user with the support services. After the expiration of the applicable warranty period, software support may be available from TerraMaster upon written request.

Article 11. Disclaimer of Warranties.

Except as expressly set forth above, TerraMaster and its suppliers provide the software "as is" and with all faults. TerraMaster and its suppliers hereby disclaim all other warranties, express, implied or statutory, arising by law or otherwise, including but not limited to any implied warranties of merchantability, fitness for a particular purpose or use, title and noninfringement, with regard to the software. Without limiting the foregoing, TerraMaster does not warrant that the software will be free of bugs, errors, viruses or other defects.

Article 12. Disclaimer of Certain Damages.

In no event will TerraMaster or its licensors be liable for the cost of cover or for any incidental, indirect, special, punitive, consequential or similar damages or liabilities whatsoever (including, but not limited to loss of data, information, revenue, profit or business) arising out of or relating to the use or inability to use the software or otherwise under or in connection with this EULA or the software, whether based on contract, tort (including negligence), absolute liability or other theories even if TerraMaster has been advised of the possibility of such loss.

Article 13. Limitation of Liability.

TerraMaster's and its suppliers' liability arising out of or relating to the use or inability to use the software or otherwise under or in connection with this EULA or the software is limited to the amount actually paid by user for device regardless of the amount of damages user may incur and whether based on contract, tort (including negligence), absolute liability or other theories. The foregoing disclaimer of warranties, disclaimer of certain damages and limitation of liability will apply to the maximum extent permitted by applicable law. The laws of some states/jurisdictions do not allow the exclusion of implied warranties or the exclusion or limitation of certain damages. To the extent that those laws apply to this EULA, the exclusions and limitations set forth above may not apply to user.

**Article 14. Export Restrictions.**

User acknowledge that the software is subject to U.S. export restrictions. User agree to comply with all applicable laws and regulations that apply to the software, including without limitation the U.S. Export Administration Regulations.

Article 15. U.S. Government License Rights.

All software provided to the U.S. Government is provided with the commercial license rights and restrictions described in this EULA. By installing, reproducing or using the software, the U.S. Government agrees that the software is "commercial computer software" or "commercial computer software documentation" defined in Article 12 of FAR.

Article 16. Termination.

Without prejudice to any other rights, TerraMaster may terminate this EULA if user do not abide by the terms and conditions contained herein. In such case, user must cease use of the software and destroy all copies of the software and all of its components.

Article 17. Assignment.

User may not transfer or assign user rights under this Eula to any third party. Any such transfer or assignment in violation of the foregoing restriction will be void.

Article 18. Applicable Law.

Unless expressly prohibited by local law, this EULA is governed by the laws of the State of Washington, U.S.A. without regard to any conflict of law principles to the contrary. The 1980 U.N. Convention on Contracts for the International Sale of Goods or any successor thereto does not apply.

Article 19. Dispute Resolution.

Any dispute, controversy or claim arising out of or relating to this warranty, the software or services provided by TerraMaster with respect to the software or the relationship between user and TerraMaster will be resolved exclusively and finally by arbitration under the current commercial rules of the American Arbitration Association if user reside in the united states, except as otherwise provided below. In such cases, the arbitration will be conducted before a single arbitrator, and will be limited solely to the dispute between user and TerraMaster. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. The arbitration shall be held in King County, Washington, U.S.A. By submission of documents, by telephone, online or in person as determined by the arbitrator at the request of the Parties. The prevailing party in any arbitration or legal action occurring within the United States or otherwise shall receive all costs and reasonable attorneys' fees, including any arbitration fee paid by the prevailing party. Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered thereon in any court of competent jurisdiction. User understand that, in the absence of this provision, user would have had a right to litigate any such dispute, controversy or claim in a court, including the right to litigate claims on a class-wide or class-action basis, and user expressly and knowingly waive those rights and agree to resolve any disputes through binding arbitration in accordance with the provisions of Article 19. If user do not reside in the United States, any dispute, controversy or claim described in this Article shall be finally resolved by arbitration conducted by three neutral arbitrators in accordance with the procedures of the P.R.C. Arbitration Law and related enforcement rules. The arbitration award shall be final and binding on the parties and may be enforced by any court having jurisdiction. Nothing in this Article shall be deemed to prohibit or restrict TerraMaster from seeking injunctive relief or seeking such other rights and remedies as it may have at law or equity for any actual or threatened breach of any provision of this Eula relating to TerraMaster's intellectual property rights.

**Article 20. Attorneys' Fees.**

In any arbitration, mediation, or other legal action or proceeding to enforce rights or remedies under this EULA, the prevailing party will be entitled to recover, in addition to any other relief to which it may be entitled, costs and reasonable attorneys' fees.

Article 21. Severability.

If any provision of this EULA is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this EULA will remain in full force and effect.

Article 22. Entire Agreement.

This EULA sets forth the entire agreement of TerraMaster and user with respect to the software and the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements whether written or oral. No amendment, modification or waiver of any of the provisions of this EULA will be valid unless set forth in a written instrument signed by the party to be bound thereby.

Warranty

This warranty applies to devices of Terramaster, Inc. and its affiliates. User accept and agree to be bound by the terms of this warranty by opening the package containing and/or using device. If user do not agree to the terms of this warranty, do not use device. Instead, user may return device to the distributor from which user purchased it for a refund in accordance with the distributor's applicable refund policy.

Article 1. Definitions.

(a) "device" means a new device or a refurbished device and any hardware incorporated into device by TerraMaster and any accompanying documentation. (b) "Software" means the TerraMaster proprietary software that accompanies device when purchased by customer, is downloaded by customer at the website, or is pre-installed on device by TerraMaster, including any firmware, associated media, images, animations, video, audio, text and applets incorporated into the software or device and any updates or upgrades to such software. (c) "Customer" means the original purchaser and entities who purchases device from TerraMaster or TerraMaster's certified dealers or distributors. (d) "Online Store" means online stores operated by TerraMaster or its subsidiaries and authorized third party sales platform. (e) "Warranty Period" means the period commencing on the date device is purchased by customer. (f) "Website" means TerraMaster's website.

Article 2. Device Warranty and Remedies**2.1 Device Warranty.**

Subject to Article 2.7, TerraMaster warrants to customers that each device (a) will be free of material defects in workmanship and (b) under normal use will perform substantially in accordance with TerraMaster's published specifications for device during the warranty period. Terramaster provides warranty for the software as set forth in the accompanying End User License Agreement (if any) provided with device.

2.2 Device Registration.

Customers may register devices with TerraMaster. The failure to register a device at the website will not diminish the warranty rights set forth in Article 2.1. Terramaster is not responsible for customer's failure to identify the manufacturing date of any device.



2.3 Exclusive Remedy.

If customer gives notice of noncompliance with any of the warranties set forth in Article 2.1 within the applicable warranty period in the manner set forth below, then, upon verification of the noncompliance by TerraMaster, TerraMaster will, at TerraMaster's option: (a) make commercially reasonable efforts to repair device, or (b) replace the nonconforming device or part thereof upon return of the complete device in accordance with Article 2.4. The foregoing sets forth TerraMaster's entire liability and customer's sole and exclusive remedy for any breach of warranty under Article 2.1 or any other defect or deficiency in device. Customer will reasonably assist TerraMaster to diagnose and validate any nonconformity with device. The warranty set forth in Article 2.1 does not include: (1) any warranty relating to the software; (2) physical installation or removal of device from customer's site; (3) visits to customer's site; (4) labor necessary to effect repairs or replace defective parts other than during TerraMaster's or its contracted service providers' normal local business hours (exclusive of weekends and service providers' holidays); (5) any work related to any third party equipment or software; (6) warranty of the hardware installed by customer or any third party; or (7) warranty of compatibility with the hard disk.

2.4 Return.

Any device returned by customer under Article 2.3 must be assigned a return material authorization ("RMA") number by TerraMaster before shipment and must be returned in accordance with TerraMaster's then current RMA procedures. Customer may contact any authorized TerraMaster's distributor or reseller or TerraMaster Support Center to obtain assistance in obtaining an RMA, and must provide proof of purchase and device serial number when asking for such assistance. For warranty claims, customer must return the complete device to TerraMaster in accordance with this Article 2.4 to be eligible for coverage under this warranty. Any device returned without an RMA number, or any device that has been disassembled (except under the direction of TerraMaster) will be refused and returned to customer at customer's expense. Any device that has been assigned an RMA number must be returned in the same condition as it was received from TerraMaster to the address designated by TerraMaster, freight pre-paid, in packaging sufficient to protect the contents thereof and with the RMA number prominently displayed on the outside of the box. Customer is responsible for insurance and risk of loss with respect to returned items until they are properly received by TerraMaster. A device assigned an RMA number must be returned within fifteen (15) days after issuance of the applicable RMA number.

2.5 Replacement by TerraMaster.

If TerraMaster elects to replace any device under this warranty set forth in Article 2.1, TerraMaster will ship a replacement device at TerraMaster's expense via the shipping method selected by TerraMaster after receipt of the nonconforming device returned in accordance with Article 2.4 and validation by TerraMaster that device does not conform to the warranty. Replacement device will be new or serviceably used, comparable in function and performance to the original device and warranted for the remainder of the original warranty period or thirty (30) days after it is shipped to Customer, whichever period is longer than the previous one. Any device found by TerraMaster to be non-defective will be returned to customer.

2.6 Support.

During the warranty period, TerraMaster will provide customer with the support services. After the expiration of the applicable warranty period, support for devices may be available from TerraMaster upon a written request.

**2.7 Exclusions.**

The foregoing warranties and warranty obligations do not apply to any device that (a) has been installed or used in a manner not specified or described in device specifications; (b) has been repaired, modified or altered by anyone other than TerraMaster's personnel or its agent or designee; (c) has been in any way misused, abused, or damaged; (d) has been used with items not provided by TerraMaster other than the hardware or software for which device is designed; or (e) otherwise fails to conform to device specifications and such failure is attributable to causes not within or under TerraMaster's control. Further, the foregoing warranties will be void if (1) customer disassembles device except as authorized by TerraMaster; (2) customer fails to implement any correction, modification, enhancement, improvement or other update made available to customer by TerraMaster; or (3) customer implements, installs or uses any correction, modification, enhancement, improvement or other update made available by any third party. The warranty set forth in Article 2.1 will terminate upon customer's sale or transfer of device to a third party.

2.8 Disclaimer of Warranties.

The warranties, obligations, and liabilities of TerraMaster and the remedies of customer set forth in this warranty are exclusive and in substitution for, and customer hereby waives, releases and disclaims, all other warranties, obligations and liabilities of TerraMaster and all other rights, claims and remedies of customer against TerraMaster, express or implied, arising by law or otherwise, with respect to device, accompanying documentation or software and any other goods or services delivered under this warranty, including, but not limited to: (a) implied warranty of merchantability or fitness for a particular purpose or use; (b) implied warranty arising from course of performance, course of dealing, or usage of trade; (c) claim of infringement or misappropriation; or (d) claim in tort (whether based on negligence, absolute liability, device liability or other theories). TerraMaster makes no guarantee and specifically disclaims any warranty that the data or information stored on any TerraMaster device will be secure and without risk of data loss. TerraMaster recommends that customer takes appropriate measures to back up the data stored on device. Some states/jurisdictions do not allow limitations on implied warranties, so the above limitation may not apply to customer.

Article 3. Limitations of Liability**3.1 Force Majeure.**

TerraMaster will not be liable for, or be considered to be in breach of or default under this warranty on account of, any delay or failure to perform as required by this warranty as a result of any cause or condition beyond its reasonable control (including, without limitation, any act or failure to act by customer).

3.2 Disclaimer of Certain Damages.

In no event will TerraMaster or its suppliers be liable for the cost of cover or for any incidental, indirect, special, punitive, consequential or similar damages or liabilities whatsoever (including, but not limited to loss of data, information, revenue, profit or business) arising out of or relating to the use or inability to use device, any accompanying documentation or software and any other goods or services provided under this warranty, whether based on contract, tort (including negligence), absolute liability or other theories even if TerraMaster has been advised of the possibility of such damages.

3.3 Limitation of Liability.

TerraMaster's and its suppliers' liability arising out of or relating to the use or inability to use device, any accompanying documentation or software and any other goods or services provided under this warranty is limited to the amount actually paid by customer for device regardless of the amount of damages customer may incur and whether based on contract, tort (including negligence), absolute liability or other theories. The foregoing disclaimer of certain damages and limitation of liability will apply to the maximum extent permitted by applicable law. The laws of some states/jurisdictions do not allow exclusion or limitation of certain damages. To the extent that those laws apply to device device, the exclusions and limitations set forth above may not apply to customer.



Article 4. Miscellaneous

4.1 Proprietary Rights.

Device and any accompanying software and documentation provided with device include proprietary and intellectual property rights of TerraMaster and its third party suppliers and licensors. TerraMaster retains and reserves all right, title, and interest in the intellectual property rights of device, and no title to or ownership of any intellectual property rights in or to device, any accompanying software or documentation and any other goods provided under this warranty is transferred to customer under this warranty. Customer will (a) comply with the terms and conditions of the TerraMaster End User License Agreement accompanying any software furnished by TerraMaster or TerraMaster's authorized distributor or reseller; and (b) not attempt to reverse engineer any device or component thereof or accompanying software or otherwise misappropriate, circumvent or violate any of TerraMaster's intellectual property rights.

4.2 Assignment.

Customer will not assign any of its rights under this warranty directly, by operation of law or otherwise, without the prior written consent of TerraMaster.

4.3 No Additional Terms.

Except as expressly permitted by this warranty, neither party will be bound by, and each party specifically objects to, any term, condition or other provision that conflicts with the provisions of this warranty that is made by the other party in any purchase order, receipt, acceptance, confirmation, correspondence or otherwise, unless both party specifically agrees to such provision in writing. Further, if this warranty conflicts with any terms or conditions of any other agreement entered into by the parties with respect to device, this warranty will prevail unless the other agreement specifically references the Articles of this warranty that it supersedes.

4.4 Applicable Law.

Unless expressly prohibited by local law, this warranty is governed by the laws of the State of Washington, U.S.A. without regard to any conflict of law principles to the contrary. The 1980 U.N. Convention on Contracts for the International Sale of Goods or any successor thereto does not apply.

4.5 Dispute Resolution.

Any dispute, controversy or claim arising out of or relating to this warranty, device or services provided by TerraMaster with respect to device or the relationship between customers residing in the United States and TerraMaster will be resolved exclusively and finally by arbitration under the current commercial rules of the American Arbitration Association, except as otherwise provided below. The arbitration will be conducted before a single arbitrator, and will be limited solely to the dispute between customer and TerraMaster. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. The arbitration shall be held in King County, Washington, U.S.A. by submission of documents, by telephone, online or in person as determined by the arbitrator at the request of the parties. The prevailing party in any arbitration or legal action occurring within the United States or otherwise shall receive all costs and reasonable attorneys' fees, including any arbitration fee paid by the prevailing party. Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered thereon in any court of competent jurisdiction. Customer understands that, in the absence of this provision, customer would have had a right to litigate any such dispute, controversy or claim in a court, including the right to litigate claims on a class-wide or class-action basis, and customer expressly and knowingly waives those rights and agrees to resolve any disputes through binding arbitration in accordance with the provisions of this Article 4.5. For customers not residing within the United States, any dispute, controversy or claim described in this Article shall be finally resolved by arbitration conducted by three neutral arbitrators in accordance with the procedures of the P.R.C. Arbitration Law and related enforcement rules. The arbitration shall take place in Taipei, Taiwan, P.R.C., and the arbitration proceedings shall be conducted in English or, if both parties agree, in Mandarin Chinese. The arbitration award shall be final and binding on the parties and may be enforced by any court having jurisdiction. Nothing in this Article shall be deemed to prohibit or restrict TerraMaster from seeking injunctive relief or seeking such other rights and remedies as it may have at law or equity for any actual or threatened breach of any provision of this warranty relating to TerraMaster's intellectual property rights.



4.6 Attorneys' Fees.

In any arbitration, mediation, or other legal action or proceeding to enforce rights or remedies under this warranty, the prevailing party will be entitled to recover, in addition to any other relief to which it may be entitled, costs and reasonable attorneys' fees.

4.7 Export Restrictions.

User acknowledge that device may be subject to U.S. Export Restrictions. User will comply with all applicable laws and regulations that apply to device, including without limitation the U.S. Export Administration Regulations.

4.8 Severability.

If any provision of this warranty is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this warranty will remain in full force and effect.

4.9 Entire Agreement.

This warranty constitutes the entire agreement, and supersedes any and all prior agreements, between TerraMaster and customer related to the subject matter hereof. No amendment, modification or waiver of any of the provisions of this warranty will be valid unless set forth in a written instrument signed by the party to be bound thereby.

Note: If there are any differences or inconsistencies between the English version and any other language version, the English version shall prevail.

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